

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

COMPANY DOE,

Plaintiff,

v.

INEZ TENENBAUM, in her official capacity as Chairman of the Consumer Product Safety Commission, and the CONSUMER PRODUCT SAFETY COMMISSION,

Defendants.

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Civil No. 11-CV-2958-AW

FILED UNDER SEAL

DEFENDANTS' STATEMENT OF OBJECTION

AND MOTION TO UNSEAL THIS STATEMENT OF OBJECTION

Defendants, the United States Consumer Product Safety Commission (“CPSC” or “the Commission”) and Inez Tenenbaum, file this Objection informing the Court that certain statements made by Plaintiff purporting to speak on behalf of the government in recent filings are without basis and completely inaccurate. Specifically, Plaintiff characterized the government’s decision not to appeal the holding in this case as “conced[ing] the correctness of this Court’s decision,” Memorandum in Support of Motion for Reconsideration at 13 (Dkt. No. 80) (Dec. 20, 2012) or “agree[ing] with this Court’s decision,” Reply in Support of Motion for Reconsideration at 8 (Dkt. No. 82) (Dec. 31, 2012). Plaintiff’s statements do not reflect the government’s position on the merits of this Court’s decision. As discussed in the attached Memorandum in Support, the government considers many factors in deciding whether or not to pursue an appeal. Plaintiff was not privy to those deliberations. Because Plaintiff’s suppositions can be based on nothing more than guesswork, they should be disregarded completely.

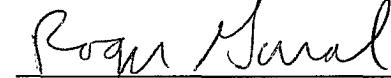
Not only was Plaintiff wrong to purport to speak for the government, it was also wrong to do so publicly. By order of this Court, all filings in this case are under seal unless the Court has specifically ordered otherwise. *See* Rev. Mem. Op. at 73 (Oct. 22, 2012) (Docket No. 74). Despite the order, Plaintiff filed its last two pleadings containing its misguided inferences on the public docket. Defendants move to unseal the instant Statement of Objection and Memorandum in Support in order to publicly correct the docket to reflect that: (1) Plaintiff was not privy to the government's deliberations regarding the government's decision not to appeal; (2) Plaintiff does not speak for the government; and (3) statements made by Plaintiff purporting to speak for the government have no basis in fact and should be disregarded completely.

Respectfully submitted,

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